



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 22, 1996

Mr. Robert E. Diaz
Police Legal Advisor
City of Arlington
P.O. Box 1065
Arlington, Texas 76004-1065

OR96-0059

Dear Mr. Diaz:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37024.

The City of Arlington Police Department (the "Department") received a request for information on November 2, 1995. On November 10, 1995, we received your request for an attorney general decision relating to the request for information. In your request for a decision, you ask whether an offense report on a harassment complaint may be withheld from the suspect pursuant to section 552.108 of the Government Code "where the report is kept for future use in the event of subsequent prosecution under Penal Code Sec. 42.071 Stalking [sic], which requires multiple events." You did not, however, submit to our office certain information that you are required to submit to us under section 552.301(b). You did not submit a copy of the request for information or copies of the specific information that was requested. You also did not submit written comments stating the reasons why you believe the exception you raised applies to the information you seek to withhold.

Pursuant to section 552.303(c), on November 13, 1995, our office notified you by letter sent via facsimile that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days after the date you received our notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the requested information is public information.

You did not timely provide our office with the information that was requested in our November 13, 1995 notice to you. Therefore, as provided by section 552.303(e), the information that is the subject of the request for information is presumed to be public information. Information presumed public must be released unless the governmental body demonstrates the existence of a compelling interest that overcomes this presumption. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ). (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown compelling reasons why the information at issue should not be released. Consequently, the information is presumed to be public and must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and is not a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 37024

cc: Mr. Patrick Colvin
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Fort Worth, Texas 76140